



Rep. Emanuel Chris Welch

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LRB099 04556 AWJ 33713 a

1 AMENDMENT TO HOUSE BILL 745

2 AMENDMENT NO. _____. Amend House Bill 745 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Counties Code is amended by adding Section
5 3-5048 as follows:

6 (55 ILCS 5/3-5048 new)
7 Sec. 3-5048. Deposit of wills.

8 (a) As used in this Section:

9 "Depositor" means an attorney licensed or formerly
10 licensed to practice in the State of Illinois, the attorney's
11 representative, the guardian for the attorney, the personal
12 representative of the attorney's decedent's estate, or the
13 testator.

14 "Testator" means a person who executed a will, other than
15 as a witness or official to whom acknowledgment of signing was
16 given.

1 "Will" refers to an original:

2 (1) will;

3 (2) codicil;

4 (3) will and one or more codicils;

5 (4) trust; or

6 (5) trust and one or more trust amendments.

7 (b) A county recorder may implement a county will
8 depository pursuant to this Section. If a county recorder
9 implements a will depository, they shall create a form
10 affidavit, to be signed by the testator and notarized, which:

11 (1) states the testator's full first, middle, and last
12 name;

13 (2) states the testator's date of birth and last four
14 digits of the testator's Social Security number;

15 (3) states the testator's current address;

16 (4) states that the document being presented to the
17 county recorder is the testator's will;

18 (5) lists up to 10 individuals to whom the county
19 recorder is authorized to deliver the will;

20 (6) has a section reserved for county recorder office
21 staff where the employee accepting the document will write
22 the name of the testator, name of the depositor, date of
23 deposit, confirmation that photo identification was
24 inspected, and a space to indicate the employee name or
25 identification number; and

26 (7) has a blank section in the upper right corner of

1 the front side to affix a unique document number, date and
2 time of deposit, and amount of recording fee.

3 (c) If a county has created a will depository, a depositor
4 may deposit a will with the county recorder if they present a
5 notarized affidavit under subsection (b). If a depositor is not
6 the testator, the county recorder may require proof of
7 authority to deposit the will. Wills will only be accepted for
8 deposit if they are the originally signed will.

9 (d) The county recorder shall collect a fee of \$25 for each
10 deposit of a will of up to 10 pages and may charge an
11 additional \$1 for each page above 10 pages. The county recorder
12 shall not collect a separate fee for additional documents
13 concurrently deposited in relation to a single testator or for
14 a single joint will prepared for a husband and wife.

15 (e) Upon receipt of a will under this Section, the county
16 recorder shall:

17 (1) provide the depositor with a receipt for the
18 affidavit and will, which receipt shall contain the
19 information designated on the envelope in accordance with
20 paragraph (3) of this subsection;

21 (2) electronically affix a unique document number,
22 date and time of deposit, and amount of recording fee in
23 the upper right corner of the affidavit;

24 (3) scan in and electronically store a copy of the
25 affidavit and will;

26 (4) place the affidavit and will or wills deposited

1 concurrently in relation to a single testator in one
2 envelope and seal the envelope securely in the presence of
3 the depositor or depositor's agent;

4 (5) designate on the envelope:

5 (A) the date of deposit;

6 (B) the name, address, and telephone number of the
7 depositor;

8 (C) the name and last known address of the testator
9 as provided by the depositor;

10 (D) at the depositor's option, any and all of the
11 following information:

12 (i) alternate names by which the testator may
13 have been known;

14 (ii) the testator's birth date, and

15 (iii) the last 4 digits of the testator's
16 Social Security number; and

17 (E) with respect to each document enclosed:

18 (i) a short description of the document,
19 including, if shown, its date of execution; and

20 (ii) the number of pages in the document; and

21 (6) index the will alphabetically by the name of the
22 testator, by the alternate names set forth by which the
23 testator may have been known, and by the electronically
24 affixed document number;

25 (7) maintain the envelope in a secure and fireproof
26 location accessible only to authorized county recorder

1 staff; and

2 (8) upon request, provide to the testator a
3 non-certified copy of the affidavit with the
4 electronically affixed document number and will with a
5 maximum fee of \$1 per page.

6 (f) An envelope, affidavit, and will deposited under this
7 Section are not public records. The indexes created under item
8 (4) of subsection (e) are public records.

9 (g) During the testator's lifetime, the county recorder
10 shall:

11 (1) keep the envelope containing the affidavit and will
12 sealed; and

13 (2) deliver the envelope to:

14 (i) the testator;

15 (ii) a person authorized, in writing signed by the
16 testator and notarized, to receive the envelope; or

17 (iii) a person, entity, court, or government
18 agency authorized to receive the envelope pursuant to
19 an order entered by a court of competent jurisdiction.

20 (h) If the county recorder has custody of the will after
21 the death of the testator and is notified of the death of the
22 testator by means of a certified copy of the testator's death
23 certificate or by a certified copy of an order of court
24 determining the testator to be deceased, upon receipt of
25 payment of a retrieval fee in the amount of \$10, the county
26 recorder shall promptly deliver the sealed envelope to the

1 clerk of the circuit court of the county in which the probate
2 of the testator's will may occur as determined under Section
3 5-1 of the Probate Act of 1975.

4 (i) Upon inquiry by a person identified in paragraph (2) of
5 subsection (g), or upon inquiry of any person presenting a
6 certified copy of the testator's death certificate or a
7 certified copy of an order of a court determining the testator
8 to be deceased, the county recorder shall inform the person
9 whether the name of the relevant testator appears in the county
10 recorder's indexes of wills. For the purposes of this
11 subsection, the county recorder need not be certain that the
12 testator is the one being inquired about, but may release that
13 information if it is possible that the testator is that one.

14 (j) The county recorder may destroy an affidavit and will
15 deposited under this Section if:

16 (1) the county recorder has not received notice of the
17 death of the testator; and

18 (2) at least 100 years have passed since the date the
19 will was deposited.

20 (k) The county recorder may use fees generated under this
21 Section for the operational expenses of the will depository and
22 for advertising the will depository."